

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

LEON GUNN, Register No. 162939,)	
)	
Plaintiff,)	
)	
v.)	No. 05-4293-CV-C-NKL
)	
MIKE KEMNA, et al.,)	
)	
Defendants.)	

ORDER

On December 5, 2005, the United States Magistrate Judge recommended dismissing plaintiff's claims. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on December 27, 2006. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

Although plaintiff alleges defendants were negligent in not following state policy concerning his conduct violation, plaintiff has not alleged he was subjected to what amounts to "atypical and significant hardship" in relation to the ordinary incidents of prison life; thus, he has no valid due process claim. Sandin v. Connor, 515 U.S. 472 (1995).

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$255.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that the Magistrate Judge's December 6, 2005, Report and Recommendation is adopted [10]. It is further

ORDERED that plaintiff's claims are dismissed, pursuant to the provisions of 28 U.S.C. § 1915A, for failure to state a claim for which relief can be granted.

/s/

NANETTE K. LAUGHREY
United States District Judge

Dated: March 22, 2006
Jefferson City, Missouri